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In re Application of :
Dabezies et al. :
Application No.: 09/462,206 :
PCT No.: PCT/FR99/01172 : DECISION
Int. Filing Date: 17 May 1999 :
Priority Date: 18 May 1998 :
Attorney Docket No.: Q-57442 :
For: Method Of Laser Welding Overlapping Sheets :
And Corresponding Railway Vehicle Body :
:

This is in response to applicant's 17 October 2002 submission which has been treated as a petition under 37 CFR 1.181.

BACKGROUND

International application PCT/FR99/01172 was filed on 17 May 1999 and claimed an earliest priority date of 18 May 1998. The International Bureau transmitted a copy of the published international application to the USPTO on 25 November 1999. No Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Consequently, the 20 month period for payment of the basic national fee in the United States expired as of midnight on 18 January 2000.

On 04 January 2000, applicants filed, *inter alia*, the basic national fee.

On 03 April 2000, a Notification Of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the filing of an executed oath or declaration of the inventors in compliance with 37 CFR 1.497 (a) and (b) and a surcharge under 37 CFR 1.492(e).

On 17 October 2002, applicants filed the present petition which was accompanied by, *inter alia*, a copy of a "Submission Of Executed Declaration With Required Fees..." The petition requests that the papers be accepted as having been originally filed on 28 April 2000.

DISCUSSION

The papers filed on 17 October 2002 include a copy of a "Submission Of Executed Declaration With Required Fees...", a copy of an executed declaration, a copy of a "Recordation Form Cover Sheet," a copy of an assignment, and a copy of a return postcard receipt itemizing said papers and stamped as received by the USPTO on "APR 28 2000." The

accompanying cover letter references said copies and states that "the above-identified information was submitted to the USPTO in a timely manner." This is construed as a representation that the copies filed on 17 October 2002 are true copies of the corresponding papers filed on 28 April 2000. Applicant is required to promptly notify this Office if this interpretation is incorrect. MPEP 503 states in part that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, the copies of the papers (including the declaration) filed on 17 October 2002 are accepted as copies of the papers as filed on 28 April 2000.

The copy of the declaration accompanying the instant "Submission Of Executed Declaration With Required Fees..." is in compliance with 37 CFR 1.497(a) and (b). Since the surcharge under 37 CFR 1.492(e) was filed on 28 April 2000, the requirements of the Notification of Missing Requirements mailed on 03 April 2000 were satisfied on 28 April 2000. However, it is noted that the declaration includes a claim to benefit of earlier filing date under 35 U.S.C. 120 of the international application number "PCT/FR990/01172" which may be defective in that (1) it does not clearly identify the international application number and (2) this application is the national stage under 35 U.S.C. 371 of international application number PCT/FR99/01172.

DECISION

The petition is **GRANTED**.

This application has an international filing date under 35 U.S.C. 363 of 17 May 1999, and a date under 35 U.S.C. 371(c) of 28 April 2000.

This application is being forwarded to the National Stage Processing Branch for further processing.



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